

AMENDED IN SENATE AUGUST 10, 2004

AMENDED IN SENATE JUNE 15, 2004

AMENDED IN ASSEMBLY APRIL 27, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2580

Introduced by Assembly Member Goldberg

February 20, 2004

An act to amend *Section 377.60 of the Code of Civil Procedure*, to amend Sections 297.5 ~~and 299~~, 299, and 299.3 of the Family Code, and to amend Section 14771 of the Government Code, relating to domestic partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 2580, as amended, Goldberg. Domestic partnerships.

(1) *Existing law provides that a cause of action for the wrongful death of a person may be asserted by his or her domestic partner, as defined.*

Under certain circumstances, this bill would allow a cause of action for wrongful death to proceed pursuant to the above although a Declaration of Domestic Partnership was not filed with the Secretary of State, if other specified requirements are met.

(2) Existing law provides for the establishment and termination of domestic partnerships, as specified. On and after January 1, 2005, existing law extends the rights and duties of marriage to persons registered as domestic partners. Existing law requires the Director of General Services, through the forms management center, to provide notice to state agencies, among others, that in reviewing and revising

all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership be included.

This bill would provide that any reference to the date of a marriage also be deemed to refer to the date of registration of a domestic partnership with the state with regard to, among other things, community property or the dissolution of a partnership. The bill would require the enforcement of a premarital agreement as between domestic partners registered with the state before January 1, 2005, if that agreement meets specified conditions, *and would require the Secretary of State to include that information in a letter that the Secretary of State is required to send to registered domestic partners, as specified.* The bill would further revise and recast certain references to domestic partners or partnerships in the above provisions as “registered” or “state-registered” domestic partners or partnerships, as specified, and would make a conforming change with respect to state forms.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 377.60 of the Code of Civil Procedure*
2 *is amended to read:*

3 377.60. A cause of action for the death of a person caused by
4 the wrongful act or neglect of another may be asserted by any of
5 the following persons or by the decedent’s personal representative
6 on their behalf:

7 (a) The decedent’s surviving spouse, domestic partner,
8 children, and issue of deceased children, or, if there is no surviving
9 issue of the decedent, the persons, including the surviving spouse
10 or domestic partner, who would be entitled to the property of the
11 decedent by intestate succession.

12 (b) Whether or not qualified under subdivision (a), if they were
13 dependent on the decedent, the putative spouse, children of the
14 putative spouse, stepchildren, or parents. As used in this
15 subdivision, “putative spouse” means the surviving spouse of a
16 void or voidable marriage who is found by the court to have
17 believed in good faith that the marriage to the decedent was valid.

18 (c) A minor, whether or not qualified under subdivision (a) or
19 (b), if, at the time of the decedent’s death, the minor resided for the



1 previous 180 days in the decedent's household and was dependent
2 on the decedent for one-half or more of the minor's support.

3 (d) This section applies to any cause of action arising on or after
4 January 1, 1993.

5 (e) The addition of this section by Chapter 178 of the Statutes
6 of 1992 was not intended to adversely affect the standing of any
7 party having standing under prior law, and the standing of parties
8 governed by that version of this section as added by Chapter 178
9 of the Statutes of 1992 shall be the same as specified herein as
10 amended by Chapter 563 of the Statutes of 1996.

11 (f) (1) For the purpose of this section, ~~"domestic partners" has~~
12 ~~the meaning provided in~~ *partner* means a person who, at the time
13 of the decedent's death, was the domestic partner of the decedent
14 in a registered domestic partnership established in accordance
15 with subdivision (b) of Section 297 of the Family Code.

16 (2) *Notwithstanding paragraph (1), for a death occurring prior*
17 *to January 1, 2002, a person may maintain a cause of action*
18 *pursuant to this section as a domestic partner of the decedent by*
19 *establishing the factors listed in paragraphs (1) to (6), inclusive,*
20 *of subdivision (b) of Section 297 of the Family Code, as it read*
21 *pursuant to Section 3 of Chapter 893 of the Statutes of 2001, prior*
22 *to its becoming inoperative on January 1, 2005.*

23 (3) *The amendments made to this subdivision during the*
24 *2003–04 Regular Session of the Legislature are not intended to*
25 *revive any cause of action that has been fully and finally*
26 *adjudicated by the courts, or that has been settled, or as to which*
27 *the applicable limitations period has run.*

28 SEC. 2. Section 297.5 of the Family Code is amended to read:

29 297.5. (a) Registered domestic partners shall have the same
30 rights, protections, and benefits, and shall be subject to the same
31 responsibilities, obligations, and duties under law, whether they
32 derive from statutes, administrative regulations, court rules,
33 government policies, common law, or any other provisions or
34 sources of law, as are granted to and imposed upon spouses.

35 (b) Former registered domestic partners shall have the same
36 rights, protections, and benefits, and shall be subject to the same
37 responsibilities, obligations, and duties under law, whether they
38 derive from statutes, administrative regulations, court rules,
39 government policies, common law, or any other provisions or
40 sources of law, as are granted to and imposed upon former spouses.

1 (c) A surviving registered domestic partner, following the
2 death of the other partner, shall have the same rights, protections,
3 and benefits, and shall be subject to the same responsibilities,
4 obligations, and duties under law, whether they derive from
5 statutes, administrative regulations, court rules, government
6 policies, common law, or any other provisions or sources of law,
7 as are granted to and imposed upon a widow or a widower.

8 (d) The rights and obligations of registered domestic partners
9 with respect to a child of either of them shall be the same as those
10 of spouses. The rights and obligations of former or surviving
11 registered domestic partners with respect to a child of either of
12 them shall be the same as those of former or surviving spouses.

13 (e) To the extent that provisions of California law adopt, refer
14 to, or rely upon, provisions of federal law in a way that otherwise
15 would cause registered domestic partners to be treated differently
16 than spouses, registered domestic partners shall be treated by
17 California law as if federal law recognized a domestic partnership
18 in the same manner as California law.

19 (f) Registered domestic partners shall have the same rights
20 regarding nondiscrimination as those provided to spouses.

21 (g) Notwithstanding this section, in filing their state income tax
22 returns, domestic partners shall use the same filing status as is used
23 on their federal income tax returns, or that would have been used
24 had they filed federal income tax returns. Earned income may not
25 be treated as community property for state income tax purposes.

26 (h) No public agency in this state may discriminate against any
27 person or couple on the ground that the person is a registered
28 domestic partner rather than a spouse or that the couple are
29 registered domestic partners rather than spouses, except that
30 nothing in this section applies to modify eligibility for long-term
31 care plans pursuant to Chapter 15 (commencing with Section
32 21660) of Part 3 of Division 5 of Title 2 of the Government Code.

33 (i) This act does not preclude any state or local agency from
34 exercising its regulatory authority to implement statutes providing
35 rights to, or imposing responsibilities upon, domestic partners.

36 (j) This section does not amend or modify any provision of the
37 California Constitution or any provision of any statute that was
38 adopted by initiative.

39 (k) This section does not amend or modify federal laws or the
40 benefits, protections, and responsibilities provided by those laws.

(l) Where necessary to implement the rights of registered domestic partners under this act, gender-specific terms referring to spouses shall be construed to include domestic partners.

(m) (1) For purposes of the statutes, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, and benefits, and the responsibilities, obligations, and duties of registered domestic partners in this state, as effectuated by this section, with respect to community property, mutual responsibility for debts to third parties, the right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership, and other rights and duties as between the partners concerning ownership of property, any reference to the date of a marriage shall be deemed to refer to the date of registration of a domestic partnership with the state.

(2) Notwithstanding paragraph (1), for domestic partnerships registered with the state before January 1, 2005, an agreement between the domestic partners that the partners intend to be governed by the requirements set forth in Sections 1600 to 1620, inclusive, and which complies with those sections, except for the agreement's effective date, shall be enforceable as provided by Sections 1600 to 1620, inclusive, if that agreement was fully executed and in force as of June 30, 2005.

~~SEC. 2.~~

SEC. 3. Section 299 of the Family Code, as added by Section 8 of Chapter 421 of the Statutes of 2003, is amended to read:

299. (a) A registered domestic partnership may be terminated without filing a proceeding for dissolution of domestic partnership by the filing of a Notice of Termination of Domestic Partnership with the Secretary of State pursuant to this section, provided that all of the following conditions exist at the time of the filing:

(1) The Notice of Termination of Domestic Partnership is signed by both registered domestic partners.

(2) There are no children of the relationship of the parties born before or after registration of the domestic partnership or adopted by the parties after registration of the domestic partnership, and neither of the registered domestic partners, to their knowledge, is pregnant.

1 (3) The registered domestic partnership is not more than five
2 years in duration.

3 (4) Neither party has any interest in real property wherever
4 situated, with the exception of the lease of a residence occupied by
5 either party which satisfies the following requirements:

6 (A) The lease does not include an option to purchase.

7 (B) The lease terminates within one year from the date of filing
8 of the Notice of Termination of Domestic Partnership.

9 (5) There are no unpaid obligations in excess of the amount
10 described in paragraph (6) of subdivision (a) of Section 2400, as
11 adjusted by subdivision (b) of Section 2400, incurred by either or
12 both of the parties after registration of the domestic partnership,
13 excluding the amount of any unpaid obligation with respect to an
14 automobile.

15 (6) The total fair market value of community property assets,
16 excluding all encumbrances and automobiles, including any
17 deferred compensation or retirement plan, is less than the amount
18 described in paragraph (7) of subdivision (a) of Section 2400, as
19 adjusted by subdivision (b) of Section 2400, and neither party has
20 separate property assets, excluding all encumbrances and
21 automobiles, in excess of that amount.

22 (7) The parties have executed an agreement setting forth the
23 division of assets and the assumption of liabilities of the
24 community property, and have executed any documents, title
25 certificates, bills of sale, or other evidence of transfer necessary to
26 effectuate the agreement.

27 (8) The parties waive any rights to support by the other
28 domestic partner.

29 (9) The parties have read and understand a brochure prepared
30 by the Secretary of State describing the requirements, nature, and
31 effect of terminating a domestic partnership.

32 (10) Both parties desire that the domestic partnership be
33 terminated.

34 (b) The registered domestic partnership shall be terminated
35 effective six months after the date of filing of the Notice of
36 Termination of Domestic Partnership with the Secretary of State
37 pursuant to this section, provided that neither party has, before that
38 date, filed with the Secretary of State a notice of revocation of the
39 termination of domestic partnership, in the form and content as
40 shall be prescribed by the Secretary of State, and sent to the other

1 party a copy of the notice of revocation by first-class mail, postage
2 prepaid, at the other party's last known address. The effect of
3 termination of a domestic partnership pursuant to this section shall
4 be the same as, and shall be treated for all purposes as, the entry
5 of a judgment of dissolution of a domestic partnership.

6 (c) The termination of a domestic partnership pursuant to
7 subdivision (b) does not prejudice nor bar the rights of either of the
8 parties to institute an action in the superior court to set aside the
9 termination for fraud, duress, mistake, or any other ground
10 recognized at law or in equity. A court may set aside the
11 termination of domestic partnership and declare the termination of
12 the domestic partnership null and void upon proof that the parties
13 did not meet the requirements of subdivision (a) at the time of the
14 filing of the Notice of Termination of Domestic Partnership with
15 the Secretary of State.

16 (d) The superior courts shall have jurisdiction over all
17 proceedings relating to the dissolution of domestic partnerships,
18 nullity of domestic partnerships, and legal separation of partners
19 in a domestic partnership. The dissolution of a domestic
20 partnership, nullity of a domestic partnership, and legal separation
21 of partners in a domestic partnership shall follow the same
22 procedures, and the partners shall possess the same rights,
23 protections, and benefits, and be subject to the same
24 responsibilities, obligations, and duties, as apply to the dissolution
25 of marriage, nullity of marriage, and legal separation of spouses
26 in a marriage, respectively, except as provided in subdivision (a),
27 and except that, in accordance with the consent acknowledged by
28 domestic partners in the Declaration of Domestic Partnership
29 form, proceedings for dissolution, nullity, or legal separation of a
30 domestic partnership registered in this state may be filed in the
31 superior courts of this state even if neither domestic partner is a
32 resident of, or maintains a domicile in, the state at the time the
33 proceedings are filed.

34 ~~SEC. 3.~~

35 *SEC. 4. Section 299.3 of the Family Code is amended to read:*

36 299.3. (a) On or before June 30, 2004, and again on or before
37 December 1, 2004, and again on or before January 31, 2005, the
38 Secretary of State shall send the following letter to the mailing
39 address on file of each registered domestic partner who registered
40 more than one month prior to each of those dates:

1
2 “Dear Registered Domestic Partner:

3
4 This letter is being sent to all persons who have registered with
5 the Secretary of State as a domestic partner.

6 Effective January 1, 2005, California’s law related to the rights
7 and responsibilities of registered domestic partners will change
8 (or, if you are receiving this letter after that date, the law has
9 changed, as of January 1, 2005). With this new legislation, for
10 purposes of California law, domestic partners will have a great
11 many new rights and responsibilities, including laws governing
12 community property, those governing property transfer, those
13 regarding duties of mutual financial support and mutual
14 responsibilities for certain debts to third parties, and many others.
15 The way domestic partnerships are terminated is also changing.
16 After January 1, 2005, under certain circumstances, it will be
17 necessary to participate in a dissolution proceeding in court to end
18 a domestic partnership.

19 Domestic partners who do not wish to be subject to these new
20 rights and responsibilities MUST terminate their domestic
21 partnership before January 1, 2005. Under the law in effect until
22 January 1, 2005, your domestic partnership is automatically
23 terminated if you or your partner marry or die while you are
24 registered as domestic partners. It is also terminated if you send to
25 your partner or your partner sends to you, by certified mail, a
26 notice terminating the domestic partnership, or if you and your
27 partner no longer share a common residence. In all cases, you are
28 required to file a Notice of Termination of Domestic Partnership.

29 If you do not terminate your domestic partnership before
30 January 1, 2005, as provided above, you will be subject to these
31 new rights and responsibilities and, under certain circumstances,
32 you will only be able to terminate your domestic partnership, other
33 than as a result of domestic partner’s death, by the filing of a court
34 action.

35 *Further, if you registered your domestic partnership with the*
36 *state prior to January 1, 2005, you have until June 30, 2005, to*
37 *enter into a written agreement with your domestic partner that will*
38 *be enforceable in the same manner as a premarital agreement*
39 *under California law, if you intend to be so governed.*

1 If you have any questions about any of these changes, please
2 consult an attorney. If you cannot find an attorney in your locale,
3 please contact your county bar association for a referral.

4
5 Sincerely,

6
7 The Secretary of State”
8

9 (b) From January 1, 2004, to December 31, 2004, inclusive, the
10 Secretary of State shall provide the following notice with all
11 requests for the Declaration of Domestic Partnership form. The
12 Secretary of State also shall attach the Notice to the Declaration of
13 Domestic Partnership form that is provided to the general public
14 on the Secretary of State’s Web site:
15

16 “NOTICE TO POTENTIAL DOMESTIC PARTNER
17 REGISTRANTS
18

19 As of January 1, 2005, California’s law of domestic partnership
20 will change.

21 Beginning at that time, for purposes of California law, domestic
22 partners will have a great many new rights and responsibilities,
23 including laws governing community property, those governing
24 property transfer, those regarding duties of mutual financial
25 support and mutual responsibilities for certain debts to third
26 parties, and many others. The way domestic partnerships are
27 terminated will also change. Unlike current law, which allows
28 partners to end their partnership simply by filing a “Termination
29 of Domestic Partnership” form with the Secretary of State, after
30 January 1, 2005, it will be necessary under certain circumstances
31 to participate in a dissolution proceeding in court to end a domestic
32 partnership.

33 If you have questions about these changes, please consult an
34 attorney. If you cannot find an attorney in your area, please contact
35 your county bar association for a referral.”
36

37 *SEC. 5.* Section 14771 of the Government Code is amended
38 to read:

39 14771. (a) The director, through the forms management
40 center, shall do all of the following:

- 1 (1) Establish a State Forms Management Program for all state
2 agencies, and provide assistance in establishing internal forms
3 management capabilities.
- 4 (2) Study, develop, coordinate and initiate forms of
5 interagency and common administrative usage, and establish basic
6 state design and specification criteria to effect the standardization
7 of public-use forms.
- 8 (3) Provide assistance to state agencies for economical forms
9 design and forms artwork composition and establish and supervise
10 control procedures to prevent the undue creation and reproduction
11 of public-use forms.
- 12 (4) Provide assistance, training, and instruction in forms
13 management techniques to state agencies, forms management
14 representatives, and departmental forms coordinators, and provide
15 direct administrative and forms management assistance to new
16 state organizations as they are created.
- 17 (5) Maintain a central cross index of public-use forms to
18 facilitate the standardization of these forms, to eliminate
19 redundant forms, and to provide a central source of information on
20 the usage and availability of forms.
- 21 (6) Utilize appropriate procurement techniques to take
22 advantage of competitive bidding, consolidated orders, and
23 contract procurement of forms, and work directly with the Office
24 of State Publishing toward more efficient, economical and timely
25 procurement, receipt, storage, and distribution of state forms.
- 26 (7) Coordinate the forms management program with the
27 existing state archives and records management program to ensure
28 timely disposition of outdated forms and related records.
- 29 (8) Conduct periodic evaluations of the effectiveness of the
30 overall forms management program and the forms management
31 practices of the individual state agencies, and maintain records
32 which indicate net dollar savings which have been realized
33 through centralized forms management.
- 34 (9) Develop and promulgate rules and standards to implement
35 the overall purposes of this section.
- 36 (10) Create and maintain by July 1, 1986, a complete and
37 comprehensive inventory of public-use forms in current use by the
38 state.
- 39 (11) Establish and maintain, by July 1, 1986, an index of all
40 public-use forms in current use by the state.



1 (12) Assign, by January 1, 1987, a control number to all
2 public-use forms in current use by the state.

3 (13) Establish a goal to reduce the existing burden of state
4 collections of public information by 30 percent by July 1, 1987,
5 and to reduce that burden by an additional 15 percent by July 1,
6 1988.

7 (14) Notwithstanding any other provision of law, including,
8 but not limited to, Section 14774, provide notice to state agencies,
9 forms management representatives, and departmental forms
10 coordinators, that in the usual course of reviewing and revising all
11 public-use forms that refer to or use the terms spouse, husband,
12 wife, father, mother, marriage, or marital status, that appropriate
13 references to state-registered domestic partner, parent, or
14 state-registered domestic partnership are to be included.

15 (15) Delegate implementing authority to state agencies where
16 the delegation will result in the most timely and economical
17 method of accomplishing the responsibilities set forth in this
18 section.

19 The director, through the forms management center, may
20 require any agency to revise any public-use form which the
21 director determines is inefficient.

22 (b) Due to the need for tax forms to be available to the public
23 on a timely basis, all tax forms, including returns, schedules,
24 notices, and instructions prepared by the Franchise Tax Board for
25 public use in connection with its administration of the Personal
26 Income Tax Law, Senior Citizens Property Tax Assistance and
27 Postponement Law, Bank and Corporation Tax Law, and the
28 Political Reform Act of 1974 and the State Board of Equalization's
29 administration of county assessment standards, state-assessed
30 property, timber tax, sales and use tax, hazardous substances tax,
31 alcoholic beverage tax, cigarette tax, motor vehicle fuel license
32 tax, use fuel tax, energy resources surcharge, emergency telephone
33 users surcharge, insurance tax, and universal telephone service tax
34 shall be exempt from subdivision (a), and, instead, each board
35 shall do all of the following:

36 (1) Establish a goal to standardize, consolidate, simplify,
37 efficiently manage, and, where possible, reduce the number of tax
38 forms.

39 (2) Create and maintain, by July 1, 1986, a complete and
40 comprehensive inventory of tax forms in current use by the board.

1 (3) Establish and maintain, by July 1, 1986, an index of all tax
2 forms in current use by the board.

3 (4) Report to the Legislature, by January 1, 1987, on its
4 progress to improve the effectiveness and efficiency of all tax
5 forms.

6 (c) The director, through the forms management center, shall
7 develop and maintain, by December 31, 1995, an ongoing master
8 inventory of all nontax reporting forms required of businesses by
9 state agencies, including a schedule for notifying each state agency
10 of the impending expiration of certain report review requirements
11 pursuant to subdivision (b) of Section 14775.

